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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,154	07/12/2001	Adrianus Josephes van den Nieuwelaar	V0028/260265	2477

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EXAMINER

NELSON, JUDITH A

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,154

Applicant(s)

VAN DEN NIEUWELAAR ET AL

Examiner

Judith A. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/09/02.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6, 8-34 and 63-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6, 8-34 and 63-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following Office Action (in this reconstructed application) is in response to: the Amendment received 12/09/02; and, the prior Election of claims in Paper No. 6. The claims status is as follows:

Claims 1-4, 6 and 8-62 are pending;

Claims 5 and 7 have been cancelled (per the Amendment rec'd 12/09/02);

Claims 35-62 have been withdrawn from consideration (per the Election made in Paper No. 6);

New claims 63-68 have been added.

Please note the discussion below, pertaining to claims 1-4, 6, 8-34 and 63-68.

Applicant's arguments with respect to claims 1-4, 6, 8-34 and new claims 63-68 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8 and 63 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 2,512,089, issued to Cervin, as listed on Applicants' Information Disclosure Statement, PTO-1449 (Paper No. 4).

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Concerning claims 1 and 4, Cervin teaches a mechanical fowl-slaughtering, inherently teaching a method of use via the brief disclosure in the specification of the patent, how the slaughtering device is to be used, namely wherein the body of the slaughter animal is repositioned from a position below the neck (as the bird/fowl would be standing perhaps in a normal position) to a position above the neck (note fig. 1; and col. 3, lines 34-38) before the opening of at least one blood vessel in the neck of the slaughter animal;

positioning the neck of the slaughter animal, wherein the neck comprises a longitudinal axis (note col. 3, lines 54-62); and

opening the at least one blood vessel (jugular vein or carotid artery, note col. 3, lines 62-73) by moving the at least one cutting device (A) along a cutting path substantially traverse to the longitudinal axis of the neck of the slaughter animal (as taught in col. 1, lines 51-54), or in the alternative, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a traverse (with respect to the orientation of the neck of the slaughter animal) cutting motion versus a parallel motion to the axis of the neck of the animal, so as to prevent the holder of the animal from cutting their hand and further since it appears that either choice of direction for cutting the at least one vein of the slaughtered animal would produce an equally resulting outcome.

(Claims 2 and 3) Cervin also teaches the cutting device (A), comprising a substantially elongate blade (10) having a sharp, inclined front side and a longitudinal

axis (as depicted in fig. 2), wherein the blade is moved along the path/line substantially in a direction parallel to the longitudinal axis (note col. 3, lines 62-73), the at least one blood vessel (jugular vein) which is to be opened being in the path of the inclined side of the blade.

(Claim 8) Cervin further teaches the legs of the slaughter animal provided with a carrier (38), whereby the slaughter animal is partially supported by the carrier (38), after the blood vessel (either jugular vein or the carotid artery) has been opened.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,512,089, issued to Cervin, as listed on Applicants' Information Disclosure Statement, PTO-1449 (Paper No. 4), as applied to claim 1 above, and further in view of U.S. Patent 6,174,228 (Grimsland et al).

Cervin discloses the claimed invention except for teaching the slaughter animals are killed via gas prior to slaughter.

Grimsland et al teach a procedure and equipment thereof, for gradual anesthetizing of poultry to induce a slow and comfortable death so as not to alarm the slaughter animal being killed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the slaughter methods of Cervin, by anesthetizing the slaughtered animal to death as taught by Grimsland et al, since Grimsland et al

teach such a modification induces a slow and unalarming death for the slaughter animal.

Allowable Subject Matter

Claims 16-19 and 64-68 are allowed.

Claims 6, 9-13 and 20-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,283,813 and 4,392,273.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

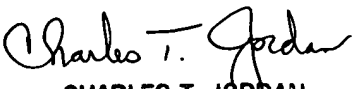
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judith A. Nelson whose telephone number is (703) 305-0984. The examiner can normally be reached on M-Thur. 9:00 a.m. - 6:30 p.m., alt. Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 306-4180.


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Judith A. Nelson
Examiner
Art Unit 3644

jan 
12/08/03